

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STEVE SACHS,

Plaintiff,

v.

STEVEN SPRAGUE, ET AL,

Defendant.

CIVIL ACTION
NO. 04-30032-MAP

REQUEST FOR ORAL ARGUMENT

**DEFENDANTS' MOTION TO DISMISS THE
CONSOLIDATED AMENDED COMPLAINT**

Defendants Messrs. Sprague, Feeney, Bagalay, Bushnell, Gilder and McConnaughy and nominal defendant Wave Systems Corp. (collectively, "Defendants") hereby move to dismiss the Consolidated Amended Complaint pursuant to Fed. R. Civ. P. 9(b), 12(b)(6), and 23.1. In support of their motion, Defendants respectfully refer the Court to their memorandum of law submitted herewith.

WHEREFORE, Defendants request that their Motion to Dismiss the Consolidated Amended Complaint be allowed and that the Plaintiffs' Consolidated Amended Complaint be dismissed in its entirety, with prejudice.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), Defendants request that this motion be set down for oral argument.

Respectfully submitted,

**STEVEN SPRAGUE, GERALD T. FEENEY,
JOHN E. BAGALAY, JR., NOLAN
BUSHNELL, GEORGE GILDER, JOHN E.
McCONNAUGHY, JR. AND NOMINAL
DEFENDANT WAVE SYSTEMS CORP.**

By its attorneys,

/s/ Michael D. Blanchard
Robert A. Buhlman, BBO #554393
Eunice E. Lee, BBO #639856
Michael D. Blanchard, BBO #636860
BINGHAM McCUTCHEN LLP
150 Federal Street
Boston, MA 02110

Dated: December 22, 2004

RULE 7.1(a)(2) CERTIFICATION

I, Michael D. Blanchard, hereby certify that counsel for Defendants conferred with counsel for Plaintiffs in good faith to resolve or narrow the issues presented in this motion, but the parties were unable to reach agreement.

/s/ Michael D. Blanchard
Michael D. Blanchard

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon each attorney of record electronically on December, 22, 2004.

/s/ Michael D. Blanchard
Michael D. Blanchard